

***Superseded 5/12/2015***

**11-42-206 Adoption of a resolution or ordinance regarding a proposed assessment area -- Designation of an assessment area may not occur if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.**

- (1)
  - (a) After holding a public hearing under Section 11-42-204 and considering protests filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a public meeting to adopt a resolution or ordinance:
    - (i) abandoning the proposal to designate an assessment area; or
    - (ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection 11-42-204(4).
  - (b) In accordance with Section 11-42-203, the governing body:
    - (i) may not schedule the public meeting before the expiration of the 60-day protest period; and
    - (ii) shall consider and report on any timely filed protests.
- (2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:
  - (a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area; and
  - (b) determine whether to designate a voluntary assessment area, after considering:
    - (i) the amount of the proposed assessment to be levied on the property within the voluntary assessment area; and
    - (ii) the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property.
- (3) If adequate protests have been filed, the governing body may not designate an assessment area as described in the notice under Section 11-42-202.
- (4)
  - (a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within 15 days after adopting the designation resolution or ordinance:
    - (i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and
    - (ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:
      - (A) states that the local entity has designated an assessment area; and
      - (B) lists, by legal description and tax identification number, the property proposed to be assessed.
  - (b) A governing body's failure to comply with the requirements of Subsection (4)(a) does not invalidate the designation of an assessment area.
- (5) After the adoption of a designation resolution or ordinance under Subsection (1)(a), the local entity may begin providing the specified improvements.